

109TH CONGRESS  
1ST SESSION

# H. R. 2955

To amend title 28, United States Code, to clarify that the Court of Appeals for the Federal Circuit has exclusive jurisdiction of appeals relating to patents, plant variety protection, or copyrights, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2005

Mr. SMITH of Texas introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To amend title 28, United States Code, to clarify that the Court of Appeals for the Federal Circuit has exclusive jurisdiction of appeals relating to patents, plant variety protection, or copyrights, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Intellectual Property  
5       Jurisdiction Clarification Act of 2005”.

6       **SEC. 2. STATE COURT JURISDICTION.**

7       Section 1338(a) of title 28, United States Code, is  
8       amended by striking the second sentence and inserting the

1 following: “No State court shall have jurisdiction over any  
 2 claim for relief arising under any Act of Congress relating  
 3 to patents, plant variety protection, or copyrights.”.

4 **SEC. 3. COURT OF APPEALS FOR THE FEDERAL CIRCUIT.**

5 Section 1295(a)(1) of title 28, United States Code,  
 6 is amended to read as follows:

7 “(1) of an appeal from a final decision of a dis-  
 8 trict court of the United States, the District Court  
 9 of Guam, the District Court of the Virgin Islands,  
 10 or the District Court of the Northern Mariana Is-  
 11 lands, in any civil action in which a party has as-  
 12 serted a claim for relief arising under any Act of  
 13 Congress relating to patents or plant variety protec-  
 14 tion;”.

15 **SEC. 4. REMOVAL.**

16 (a) IN GENERAL.—Chapter 89 of title 28, United  
 17 States Code, is amended by adding at the end the fol-  
 18 lowing new section:

19 **“§ 1454. Patent, plant variety protection, and copy-**  
 20 **right cases**

21 “(a) IN GENERAL.—A civil action in which any party  
 22 asserts a claim for relief arising under any Act of Con-  
 23 gress relating to patents, plant variety protection, or copy-  
 24 rights may be removed to the district court of the United

1 States for the district and division embracing the place  
2 where such action is pending.

3 “(b) SPECIAL RULES.—The removal of an action  
4 under this section shall be made in accordance with sec-  
5 tion 1446 of this chapter, except that if the removal is  
6 based solely on this section—

7 “(1) the action may be removed by any party;  
8 and

9 “(2) the time limitations contained in section  
10 1446(b) may be extended at any time for cause  
11 shown.

12 “(c) REMAND.—If a civil action is removed solely  
13 under this section, the district court—

14 “(1) shall remand all claims that are not within  
15 the original or supplemental jurisdiction of the dis-  
16 trict court under any Act of Congress; and

17 “(2) may, under the circumstances specified in  
18 section 1367(c), remand any claims within the sup-  
19 plemental jurisdiction of the district court under sec-  
20 tion 1367.”.

21 (b) CONFORMING AMENDMENT.—The table of sec-  
22 tions for chapter 89 of title 28, United States Code, is  
23 amended by adding at the end the following new item:

“1454. Patent, plant variety protection, and copyright cases.”.

1 **SEC. 5. EFFECTIVE DATE.**

2       The amendments made by this Act shall apply to any  
3 civil action commenced on or after the date of the enact-  
4 ment of this Act.

